

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1986 - SB 2080

April 3, 2009

SUMMARY OF BILL: Requires health insurers to respond to eligibility inquiries within 24-hours or to upload data to a centralized database information system on coverage and benefits. Requires publically sponsored health plans to transmit eligibility inquiries to every health plan or insurer in the United States to resolve the primacy of the publically sponsored health plan before paying each claim that is submitted. Creates a presumption that each enrollee in a publically sponsored health plan has additional coverage that must be overcome before any claim can be paid. Requires each publically funded health plan to commence an audit of its primary payments by November 1, 2009. Requires the Department of Revenue to respond to inquiries or enable access to data on the employment and income of any person seeking contribution to their cost of coverage under TennCare. Establishes penalties for failure by a party to reply to eligibility inquiries through injunctive relief. Requires the Attorney General to subpoena enrollment data, commence a complaint for sanctions under the Health Insurance Portability and Accountability Act (HIPAA), commence prosecution, and commence an action in state court to force compliance when a publically funded health plan fails to reply to an eligibility inquiry. Requires the Commissioner of Commerce and Insurance to permanently revoke the license of any health plan that is found for a second time to have failed or refused to comply with an inquiry. Establishes that only the state can pursue a false claim and applies the False Claim Act to workers' compensation claims. Reduces the amount a qui tam plaintiff may receive in state pursued claims from between 25 to 30 percent to between 15 and 25 percent. The Attorney General's percentage of any award is set aside for future investigations. Only the court is granted authority to dismiss an action brought for submitting a false claim. Authorizes up to 10 years after the date on which the violation occurred in which to bring a civil action and authorizes civil actions based on occurrences prior to July 1, 2009 if 10 years have not lapsed since the date of the occurrence. Deletes the Medicaid False Claims Act making false claims submissions to the Bureau of TennCare governed by the provisions within the proposed False Claims Act.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$10,000/One-Time
Exceeds \$1,288,900/Recurring

Increase Local Expenditures – Exceeds \$90,000*

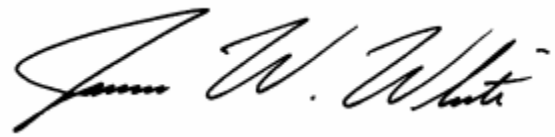
Assumptions:

- The Department of Commerce and Insurance will administer and enforce the provisions of the bill. The Department along with the Office of the Attorney General will implement measures that comply with HIPAA, including the newly enacted Health Information Technology for Economic and Clinical Health Act (HITECH Act) and the Fair Credit Reporting Act. Any cost incurred by the Department will not be significant and can be accommodated within existing resources without an increased appropriation or reduced reversion.
- The Attorney General will require one additional attorney and one paralegal to meet the increased workload. Recurring state expenditures of \$198,900 include salary and benefits for one attorney (\$127,400), and salary and benefits for one paralegal (\$71,500). One-time expenditures of \$10,000 for furniture, computers, telephones, and other related items.
- According to the Department of Revenue, the Department does not maintain primary source data regarding employment and income of Tennessee residents. The Department will not be able to comply with the provisions of the bill.
- According to the Bureau of TennCare, the program will incur an increase in administrative costs, payments of fees to third parties for access to databases, and the loss of recoupment revenue.
- TennCare estimates an increase in expenditures which exceeds \$1,000,000 for systems changes to handle the information exchanges and interfacing with the proposed database and additional administrative costs. According to TennCare, these funds will not receive federal matching funds because of guidance issued by the Centers for Medicare and Medicaid Services (CMS).
- According to the Department of Finance and Administration, the State Employee, local Government, and Local Education Health Plans will incur an increase of approximately \$90,000 for eligibility data exchanges.
- Any local governments that do not opt into the State Employee Health Plans will incur an increase in expenditures for eligibility data exchanges. It is estimated that the impact to these local governments will be similar to that of the State Employee Health Plans resulting in an increase in local expenditures that exceeds \$90,000.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/kml